

AMENDED IN ASSEMBLY JANUARY 4, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 1106

Introduced by Assembly Member Jones-Sawyer

February 27, 2015

An act to ~~amend Section 600 of the Public Resources Code, relating to conservation.~~ *add and repeal Section 991.5 of the Penal Code, relating to criminal procedure.*

LEGISLATIVE COUNSEL'S DIGEST

AB 1106, as amended, Jones-Sawyer. ~~Department of Conservation: Director of Conservation.~~ *Criminal procedure: arraignment pilot program.*

Existing law requires the magistrate, on motion of counsel for the defendant or the defendant, when the defendant is in custody at the time he or she appears before the magistrate for arraignment and the public offense is a misdemeanor to which the defendant has pleaded not guilty, to determine whether there is probable cause to believe that a public offense has been committed and that the defendant is guilty of that offense. Existing law requires the determination of probable cause to be made immediately, unless the court grants a continuance not to exceed 3 court days, for good cause.

This bill would require the Judicial Council to establish a 5-year pilot project in 6 counties, as specified, that would require a court to apply those same procedures in the case of an arraignment of a defendant who is not in custody for a public offense that is a misdemeanor to which the defendant has pleaded not guilty.

~~Existing law establishes the Department of Conservation in the Natural Resources Agency and provides that the department succeeds to and is~~

~~vested with all of the duties, powers, purposes, responsibilities, and jurisdiction formerly vested in the Department of Natural Resources or the Director of Natural Resources and exercised by specified divisions of that department. Existing law also provides that the department is under the control of an executive officer known as the Director of Conservation, who is appointed by and holds office at the pleasure of the Governor.~~

~~This bill would make nonsubstantive changes to these provisions.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 991.5 is added to the Penal Code, to read:
2 991.5. (a) The Judicial Council shall, on or before July 1,
3 2017, select six counties to participate in a five-year pilot project
4 that would require a court, upon request by the defendant in the
5 case of a defendant charged with a misdemeanor who is not in
6 custody, to make a finding at the arraignment as to whether
7 probable cause exists to believe that a public offense has been
8 committed and that the defendant is guilty thereof.
9 (b) The Judicial Council shall select the six counties that will
10 participate in the pilot project, provided, however, that the County
11 of Los Angeles shall be included in the pilot project, and that the
12 other five counties shall represent small, medium, and large
13 counties, by population.
14 (c) The following arraignment procedure shall apply in the pilot
15 project counties:
16 (1) When the defendant is out of custody at the time he or she
17 appears before the magistrate for arraignment and the public
18 offense is a misdemeanor to which the defendant has pleaded not
19 guilty, the magistrate, on motion of counsel for the defendant or
20 the defendant, shall determine whether there is probable cause to
21 believe that a public offense has been committed and that the
22 defendant is guilty thereof.
23 (2) The determination of probable cause shall be made
24 immediately, unless the court grants a continuance for good cause
25 not to exceed three court days.
26 (3) In determining the existence of probable cause, the
27 magistrate shall consider any warrant of arrest with supporting

1 affidavits, and the sworn complaint together with any documents
2 or reports incorporated by reference thereto, which, if based on
3 information and belief, state the basis for that information, or any
4 other documents of similar reliability.

5 (4) If, after examining these documents, the court determines
6 that there exists probable cause to believe that the defendant has
7 committed the offense charged in the complaint, it shall maintain
8 the trial date already calendared for the defendant.

9 (5) If the court determines that no probable cause exists, it shall
10 dismiss the complaint and discharge the defendant.

11 (6) The prosecution may refile the complaint within 15 days of
12 the dismissal of a complaint pursuant to this section.

13 (7) A second dismissal pursuant to this section is a bar to any
14 other prosecution for the same offense.

15 (d) This section shall become inoperative on July 1, 2022, and,
16 as of January 1, 2023, is repealed, unless a later enacted statute,
17 that becomes operative on or before January 1, 2023, deletes or
18 extends the dates on which it becomes inoperative and is repealed.

19 ~~SECTION 1. Section 600 of the Public Resources Code is~~
20 ~~amended to read:~~

21 ~~600. As used in this chapter:~~

22 (a) ~~“Department” means the Department of Conservation.~~

23 (b) ~~“Director” means the Director of Conservation.~~